

REMARKS

Claims 1, 3-7 and 24-26 stand rejected. Claims 8 and 12-23 are cancelled herein without prejudice. Applicants have amended the Sequence Listing and page 23 of the specification to incorporate the amino acid sequence of human B7-H2 as SEQ ID NO:43. The sequence of human B7-H2 is set forth in the Wang *et al.* reference, which was incorporated into the originally filed specification by reference. Thus, no new matter has been added by the amendment to the specification.

Applicants have amended claim 1 to recite that the human B7-H2 sequence is set forth in SEQ ID NO:43, which is consistent with the amendment to page 23 of the specification. In addition, Applicants have amended claim 26 to recite that the peptide sequence unrelated to the ICOS or the second peptide sequence unrelated to ICOS is a human IgG1 CH2-CH3 sequence. Support for this amendment can be found in Applicants' specification at page 18, lines 18-20. Thus, no new matter has been added by the amendments to the claims.

In light of these amendments and the following remarks, Applicants respectfully request reconsideration and allowance of claims 1, 3-7, and 24-27.

Examiner Interview

Assignee's agent thanks the Examiner for the courtesy of a telephonic interview on February 14, 2007. During the interview, the outstanding rejections and potential amendments to the claims and the specification were discussed.

Rejections under 35 U.S.C. §112

The Examiner maintained the rejection of claims 1, 3-7 and 24-26 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. In particular, the Examiner asserted that the recitation of "B7-H2" is indefinite because its identity is unclear.

Applicants respectfully disagree. A person of skill in the art, reading Applicants' specification, would understand what is meant by "human B7-H2." To further prosecution, however, Applicants have amended the specification and the Sequence Listing to incorporate the amino acid sequence of human B7-H2 as set forth in the Wang *et al.* reference (*Blood*, 2000,

96:2808-2813), which was previously incorporated into the specification by reference (see the statement under 37 C.F.R. § 1.57(f), below). Applicants also have amended claim 1 to recite that the human B7-H2 sequence is set forth in SEQ ID NO:43. Thus, the identity of human B7-H2 as recited in the present claims is clear.

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 1, 3-7 and 24-26 under 35 U.S.C. §112, second paragraph.

The Examiner maintained the rejection of claim 26 under 35 U.S.C. §112, first paragraph, as allegedly containing new matter. Specifically, the Examiner alleged that the recitation of an “immunoglobulin CH2-CH3 sequence” represents a departure from the specification and claims as originally filed.

Applicants respectfully disagree. As previously noted, the specification at page 18, lines 18-20 disclose that a human IgG1 CH2-CH3 portion was linked to an ICOS sequence. Thus, Applicants’ specification provides a representative species of immunoglobulin. To further prosecution, however, Applicants have amended claim 26 to recite “a human IgG1 CH2-CH3 sequence.” Given the disclosure at page 18 of the specification, present claim 26 is fully described.

In light of the above, Applicants respectfully request withdrawal of the rejection of claim 26 under 35 U.S.C. §112, first paragraph.

Statement under 37 C.F.R. § 1.57(f)

The sequence inserted into Applicants’ specification is set forth in the Wang et al. reference (*Blood*, 2000, 96:2808-2813), which was specifically referred to at page 23, lines 5-6 of the originally filed application, and which was incorporated by reference as stated at page 3, lines 2-4 of the originally filed application. Thus, the material being inserted into Applicants’ specification is material that was previously incorporated by reference, and the amendment to the specification contains no new matter.

CONCLUSION

Applicants submit that claims 1, 3-7 and 24-26 are in condition for allowance, which action is respectfully requested. The Examiner is invited to telephone the undersigned agent if such would further prosecution.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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